IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Crl.MC.No. 3817 of 2007()

AGAINST THE JUDGEMENT/ORDER IN BA.623/2007 Dated 05/02/2007
CC.63/2007 of JUDL. MAGISTRATE OF FIRST CLASS-II, HARIPAD

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PETITIONERS/A1 TO 3:

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1. SANTHOSH, AGED 27 YEARS, S/O.VISWANATHAN
   THAYIL THEKKATHIL HOUSE, POTHAPPALLY MURI
   KUMARAPURAM P.O., HARIPAD, ALAPPUZHA.

2. VISWANATHAN, AGED 63 YEARS, S/O.PARAMESWARAN
   DO. DO.

3. SARASWATHY, AGED 52 YEARS, W/O.VISWANATHAN
   DO. DO.

BY ADV. SRI.S.SANAL KUMAR

RESPONDENT/COMPLAINANT:

STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTO, HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 3817 of 2007

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Dated this the 19th day of December, 2007

O R D E R

The petitioner faces indictment in a prosecution for offences punishable under Section 498A I.P.C. Cognizance has been taken. Consequent to the non-appearance of the petitioners, coercive processes have been issued against the petitioners. The petitioners find such coercive processes issued by the learned Magistrate chasing them.

2. According to the petitioners they are absolutely innocent. Their absence was not willful or deliberate, but on account of reasons beyond their control. They are willing to surrender before the learned Magistrate, but they apprehend that their applications for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to release the petitioners on bail on the date of surrender itself.

3. It is certainly for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Sessions Magistrate would not consider their applications for bail to be filed by the petitioners when he surrender before the learned Magistrate on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitionesr appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must

proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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